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To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
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From: William T Fujioka
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SACRAMENTO UPDATE

This memorandum contains a pursuit of a County position on legislation regarding the definition of a safety net care provider for the purpose of determining default enrollment into a Medi-Cal managed care plan; updates on County-advocacy legislation related to: 1) violations of underground excavation requirements; 2) county sealers, 3) workers' compensation; 4) immunization requirements for school-aged children; 5) responsibility for sidewalk repairs; 6) death benefit claims; 7) bond proceeds of former redevelopment agencies; 8) design-build contracts; and 9) reimbursement for uncompensated medical care for persons injured by a third party; and a report on legislation of County interest regarding economic development.

Pursuit of County Position on Legislation

AB 2002 (Cedillo), which as amended on April 30, 2012, would codify and expand the definition of a safety net provider, and change the formula in which a Medi-Cal beneficiary is assigned to a Medi-Cal managed care plan when a beneficiary fails to select a plan.

The Medi-Cal Program provides health care services for low-income children, families, elderly and disabled persons in California. Approximately 3.5 million Medi-Cal beneficiaries in 16 counties are required to enroll in a Medi-Cal managed care plan at the time they are determined eligible for benefits.

Currently, if a beneficiary fails to select a managed care plan, they are assigned to a plan by default using a formula developed by the California Department of Health Care Services. The formula defaults beneficiaries into a managed care plan based on health plan quality and safety net population factors. The current safety net default providers include federally qualified health centers, federally designated rural clinics, Indian or tribal clinics, non-profit community or free clinics licensed as primary care clinics or clinics affiliated with Disproportionate Share Hospital (DSH) facilities.

Safety net providers are currently defined in a variety of ways in statute and regulation and generally comprise providers such as public hospitals serving high numbers of uninsured, uncompensated, and in some instances, Medi-Cal patients.

AB 2002 would add Section 14093.1 to the Welfare and Institutions Code to define a safety net provider for the purpose of assigning a Medi-Cal beneficiary to a Medi-Cal managed care plan when a beneficiary fails to select a plan as:

1. A federally qualified health center.
2. A federally designated rural health center.
3. A non-profit community or free clinic licensed as a primary care clinic.
4. A satellite or intermittent site of a non-profit or free clinic licensed as a primary care clinic.
5. An Indian or tribal clinic.
6. A freestanding county clinic or clinic associated with a DSH.
7. A medical group, independent practice association, physician office, or clinic with more than ten physicians, with a Medi-Cal or medically indigent encounter rate of at least 50 percent of the total patients served.
8. A medical practice of ten or fewer physicians in which at least 30 percent of patients services in the calendar year are enrolled in Medi-Cal.

The Department of Health Services (DHS) notes that AB 2002 would substantially expand the definition of an outpatient safety net provider to include clinics that may not dedicate any portion of their business to serving medically indigent patients. DHS indicates that while AB 2002 would have no immediate fiscal impact on its operations, it would significantly impact the number of future default auto-assignments to health providers in populations newly covered by Medi-Cal managed care, the population due

to become eligible for Medi-Cal in 2014 as a result of the Federal Affordable Care Act, and persons eligible to both Medicare and Medi-Cal.

The Department of Health Services further indicates that the expanded definition of a safety net provider could impact existing and future programs that are intended to target safety net providers resulting in potentially adverse fiscal implications. This could occur by requiring the allocation of funds to a broadened set of providers from capped funds currently allocated to DHS and other safety net providers thereby, excluding DHS from revenue pools to which it is currently entitled.

The Department of Health Services and this office oppose AB 2002. Therefore, consistent with existing Board policy to oppose legislation that would result in the reduction of the County's funding as a safety net provider of health care, **the Sacramento advocates will oppose AB 2002.**

AB 2002 is sponsored by Molina Healthcare of California and supported by the California Association of Physician Groups; California Medical Association; California Podiatric Medical Association; California Teamsters Public Affairs Council; Employee Health Systems Medical Group, Inc.; Greater Sacramento Pediatrics Association, Inc.; MedPOINT Management; Private Essential Access Community Hospitals; Sacramento Family Medical Centers; and SynerMed. This measure is opposed by the California State Association of Counties; County Health Executives Association of California; Services Employees International Union of California; California Association of Public Hospitals; California Primary Care Association, and Local Health Plans of California.

AB 2002 is scheduled for a hearing in the Assembly Appropriations Committee on May 16, 2012.

Status of County-Advocacy Legislation

County-opposed-unless-amended AB 1514 (B. Lowenthal), which would change existing law regarding penalties for violations of underground excavation requirements to: 1) add local agencies to those entities that may be subject to a civil penalty; 2) increase the maximum amount of civil penalties that may be assessed for negligent or knowing and willful excavation violations; and 3) specify that separate violations may be assessed as civil penalties, was amended on May 1, 2012. The amendments removed the provisions to add local agencies to those entities that may be subject to a civil penalty from the bill and clarified that the bill does not provide additional jurisdiction to the California Public Utilities Commission (CPUC).

According to the Department of Public Works (DPW), the amended language still imposes an adverse impact to the County. Specifically, the bill significantly raises the penalties of negligent or willful violations when the County is an excavator. It is unclear if the excavator nomenclature would exclude an operator or contractor hired by the County. According to DPW, an argument could be made that under the legal Doctrine of Respondent Superior, the County could be subject to the fine as the owner/manager of a contractor's violation. Although, it is unlikely that the County could be held liable for a contractor's intentional act under respondent superior because the precipitating action would be outside the course and scope of the contract which requires the contractor to obey all laws, there could be some risk from an act wherein a contractor was taking direction from a County inspector. DPW is concerned with these punitive fines being applied to the public agency force account work.

According to the Department of Public Works, the May 1, 2012 amendments to AB 1514 are changes that are beneficial to the County; however, DPW continues to have concerns related to the increase in overall liability risk to the County and recommends an additional amendment to limit the County's liability only to the cost of the enforcement action and not additional punitive fines. **Therefore, the Sacramento advocates will continue to oppose AB 1514, unless amended as indicated above.**

This measure is awaiting a hearing in the Assembly Appropriations Committee.

County-supported AB 1623 (Yamada), which as amended on May 3, 2012, would extend the authority of county board of supervisors to: 1) charge an annual registration fee to recover the costs of the county sealer from January 1, 2013 to January 1, 2018; 2) provide adjustments to the fee for particular weighing and measuring devices; and 3) specify that, in certain circumstances, the fee consisting of the business location fee and the device fees shall not exceed a specified amount, passed the Assembly Floor by a vote of 56 to 16 on May 7, 2012. This measure now proceeds to the Senate.

County-opposed AB 1687 (Fong), which as amended on March 12, 2012, would award attorney fees when an injured employee is successful in overturning a utilization review decision before the Workers' Compensation Appeals Board, passed the Assembly Appropriations Committee by a vote of 12 to 5 on May 9, 2012. This measure now proceeds to the Assembly Floor.

County-supported AB 2109 (Pan), which as amended on April 23, 2012, would change the process which allows parents of school-aged children to claim a Personal Belief Exemption from immunization requirements for entry to childcare and school, passed the Assembly Floor by a vote of 44 to 19 on May 10, 2012. This measure now proceeds to the Senate.

County-opposed AB 2231 (Fuentes), which as amended April 23, 2012, would shift responsibility for dangerous or inoperable sidewalks from adjacent property owners to a county, city, or city and county in specified situations and would prohibit the local agency from imposing assessments on adjacent property owners for sidewalk repairs, was placed on the Assembly Appropriations Committee's suspense file on May 9, 2012.

County-opposed AB 2451 (J. Pérez), which as amended on April 19, 2012, would extend the statute of limitations on filing a claim for death benefits for a firefighter or peace officer who dies of a presumptive work-related illness, passed the Assembly Floor by a vote of 60 to 5 on May 10, 2012. This measure now proceeds to the Senate.

County-opposed SB 986 (Dutton), which as amended April 24, 2012, would make changes to ABX1 26 (Chapter 5, Statues of 2011) to allow successor agencies to keep bond proceeds of former redevelopment agencies rather than distributing those revenues to local taxing entities, was placed on the Senate Appropriations Committee suspense file on May 7, 2012.

County-support-and-amend SB 1509 (Simitian), which as amended on April 18, 2012, would delete the existing sunset date on the authority of school districts and community college districts to enter into a design-build contract for the design and construction of a school facility and community college facility, passed the Senate Floor by a vote of 32 to 4 on May 7, 2012. This measure now proceeds to the Assembly.

County-support-in-concept SB 1528 (Steinberg), which as amended April 30, 2012, would state the intent of the Legislature to develop a mechanism to provide reimbursement for the uncompensated care provided to persons, including Medi-Cal patients injured by a third party, passed the Senate Judiciary Committee on by a vote of 3 to 2 on May 8, 2012. This measure now proceeds to the Senate Floor.

Legislation of County Interest

AB 2144 (Pérez), which as amended on April 16, 2012, would make changes to Infrastructure Financing Districts (IFDs) to: 1) expand the types of facilities and projects that can be financed; 2) reduce the voter threshold for their creation and the issuance of bonds; 3) authorize an IFD to utilize the powers provided under the Polanco Redevelopment Act (Polanco Act) relating to hazardous cleanup; and 4) rename an IFD to Infrastructure and Revitalization Financing District (IRFD).

Specifically, AB 2144 would authorize an IRFD to finance additional capital projects of communitywide significance to include: 1) watershed lands used for the collection and treatment of water for urban uses; 2) flood management, levees, and bypasses;

3) habitat restoration; 4) brownfields restoration and other environmental mitigation; 5) the repayment of the transfer of funds to a military base authority; and 6) purchase of land and property for development purposes, including housing, and commercial and industrial structures for private use. The bill would remove the restriction that an IRFD may not purchase facilities still under construction.

In addition, AB 2144 would authorize an IRFD to finance: 1) environmental remediation and brownfield restoration utilizing the powers under the Polanco Act; 2) any project that implements the provisions of a sustainable communities strategy; and 3) a project on a former military base so long as the project is consistent with the authority reuse plan and is approved by the military base reuse authority.

The bill also would reduce the vote threshold for creating an IRFD and issuing bonds from two-thirds voter approval to 55 percent, and remove the voter threshold for the issuance of debt by an IRFD if the project to be financed is on land of a former military base that is publicly owned. In addition, the bill would expand the timeline for which an IRFD can collect tax increment for financing projects from 30 to 40 years and prohibit and IRFD from issuing debt with a final maturity more than 30 years from the creation of IRFD.

Any debts of an IRFD would be subordinate to an enforceable obligation of a former Redevelopment Agency (RDA), if the IRFD and the redevelopment project area overlap. The bill also would remove the restriction that an IRFD may not overlap with a redevelopment project area. After adoption of an IRFD, an annual report would be required to be posted on the city or county's website that contains a summary of its expenditures, a description of the progress made towards its adopted goals, and an assessment of the status on the completion of its projects.

Existing law authorizes the creation of IFDs and the issuance of tax allocation bonds to finance the purchase, construction or improvement of certain projects that offer community-wide benefits and an estimate useful life of 15 years or longer. These projects may include highways, transit, water systems, flood control, solid waste facilities, parks, libraries and child care facilities. An IFD may finance planning and design work which is directly related to the acquisition or development property. An IFD may only finance the purchase of facilities for which construction has been completed. Routine maintenance, repair work or the costs of ongoing operation or providing services may not be financed by an IFD.

The author of AB 2144 indicates that the bill would facilitate the formation and broaden the purposes of IFDs to make them more useful local tools, in light of the end of redevelopment, for economic development, affordable housing, sustainable communities, military base reuse, and brownfields cleanup and mitigation. The author

also indicates IRFDs would encourage local cooperation and provide appropriate protections for State and local taxpayers. According to the Assembly Local Government Committee analysis, the fiscal impact of AB 2144 is unknown.
Under AB 2144, the County would retain its ability to opt-out of the property tax diversion for an IRFD proposed within its taxing jurisdiction. Specifically, an IRFD choosing to authorize tax increment financing would not be able to receive the County's share of property tax revenue without the County's approval of the proposal. While AB 2144 would have no immediate fiscal impact on the County, the bill would change IFDs to make them more closely resemble redevelopment agencies. By broadening its powers to acquire property and develop and construct capital projects, the substitution of IFDs for redevelopment, without a blight requirement, would be a major revision to the applicability of tax increment financing.

Should AB 2144 be enacted and widely utilized as an alternative to redevelopment, it could have the effect of dispersing local infrastructure investments in such a way that stimulates low-density outward growth and urbanizes greenfields. In addition, by reducing the voter threshold to 55 percent and exempting publicly owned military bases from a vote requirement, the bill could diminish the public process for community input into the program and how property taxes are spent.

There is no existing Board policy relating to AB 2144; however, this office will continue to work with affected departments to monitor and analyze the bill and will keep your Board apprised of potential County impact.

There is no registered support of AB 2144 on file. The measure is opposed by the California Association of Realtors, Fieldstead & Company and Howard Jarvis Taxpayers Association.

AB 2144 passed the Assembly Local Government Committee by a vote of 6 to 3 on April 25, 2012. The bill is scheduled for a hearing in Assembly Appropriations Committee on May 16, 2012.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:sb

c: All Department Heads
Legislative Strategist